

NATIONAL CONSUMER COOPERATIVE BANK ACT

AUGUST 31, 1976.—Ordered to be printed

Mr. REUSS, from the Committee on Banking, Currency and Housing,
submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[Including Congressional Budget Office Cost Office]

[To accompany H.R. 14829]

The Committee on Banking, Currency and Housing, to whom was referred the bill (H.R. 14829) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 8, line 16, strike out "109" and insert "110".

Page 9, beginning in line 17, strike out "without regard to section 3709 of the Revised Statutes".

Page 10, beginning in line 18, strike out ", without regard to section 3709 of the Revised Statutes,".

Page 17, beginning in line 12, strike out "No class" and all that follows down through the period in line 16 and insert in lieu thereof the following:

Class A preferred stock held by the United States shall have first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as the United States holds any class A preferred stock, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A preferred stock.

Page 18, beginning in line 4, strike out "Such stock" and all that follows down through the period in line 11, and insert in lieu thereof the following:

Such stock shall be redeemed and retired by the Bank as soon as practicable consistent with the purposes of this Act, provided that beginning on June 30, 1990, the minimum amount of class A stock retired shall equal the amount of class B stock issued by the Bank during such year.

Page 18, beginning in line 12, strike out "at the rate of 2 per centum per annum on the amounts of class A stock outstanding." and insert in lieu thereof the following:

of the lesser of 25 per centum of the gross income of the Bank for the year less necessary operating expenses, or an amount based on a rate, determined by the Secretary of the Treasury, taking into account the average annual interest rate on all issues of debt obligations of the United States outstanding at the end of the preceding fiscal year and the objectives of the Act to attain full borrower ownership and control of the Bank as soon as possible, applied to the amount of outstanding class A stock.

Page 18, line 18, strike out "at least one share of class B stock" and insert in lieu thereof the following:

class B stock in an amount not less than 1 per centum of the face amount of the loan

Page 22, line 5, insert "and without any discrimination on the basis of age, sex, or marital status" immediately after "crimination".

Page 27, strike out lines 9 through 14; and in line 15, strike out "(e)" and insert in lieu thereof "(d)".

Page 28, line 24, strike out "Bank." and insert in lieu thereof the following:

Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar functions, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank.

Page 30, strike out lines 8 through 12.

Page 30, beginning in line 22, strike out "Consumer Cooperative Assistance Administration" and insert in lieu thereof "Cooperative Bank and Assistance Administration".

Page 43, strike out lines 21 through 25, and insert the following:

SEC. 410. (a) Section 201 of the Government Corporation Control Act, as amended (31 U.S.C. 856), is amended—

(1) by striking out "and" immediately before "(6)" the first time it appears and inserting in lieu thereof a comma,

(2) by striking out "and (6)" the second time it appears and inserting in lieu thereof "(7)", and

(3) by striking out "and" immediately before "(8)" and by inserting ", and (9) the National Consumer Co-

operative Bank" immediately before the period at the end thereof.

Page 44, strike out lines 12 through 16, and insert the following:

(d) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(64) Chairman, Cooperative Bank and Assistance Administration."

HISTORY OF THE LEGISLATION

The Consumer Cooperative Bank Bill, originally designated H.R. 10881, was introduced by Congressman Fernand St Germain on November 20, 1975, and attracted 42 co-sponsors. By the end of June, 1976, after two days of hearings, the identical legislation received the support of 78 co-sponsors, 23 of whom were members of this Committee.

On June 29 and 30, 1976, the Subcommittee on Financial Institutions Supervision Regulation and Insurance held hearings on the bill, receiving testimony from 22 witnesses, including cooperative and consumer trade associations, the Treasury Department, the Farm Credit Administration, and Members of Congress. On July 22, 1976, the Subcommittee, by voice vote, ordered a clean bill, H.R. 14829, incorporating five amendments adopted en bloc to assure the bill conformed to the provisions of the Congressional Budget Act (P.L. 93-344).

On August 24, 1976, the Full Committee met in executive session and, by a roll-call vote for 25 for and 10 against, ordered the bill, H.R. 14829, favorably reported with amendments.

PURPOSE OF THE LEGISLATION

The National Consumer Bank Bill was conceived to assist consumers who desire to form, or who have formed, cooperative not-for-profit associations for the purpose of providing themselves with quality goods and services at reasonable prices. For many reasons cooperatives all too often have been denied access to credit through traditional financial channels. H.R. 14829 seeks to assist the consumer cooperative movement and thereby strengthen competition in the marketplace by providing credit-worthy cooperatives with start-up and expansion capital at prevailing market rates and with technical assistance in order to enable them to responsibly and efficiently carry out their activities.

In designating October, 1975 as National Cooperative Month, President Ford recognized the cooperative movement as being a "keystone" of our national growth and development. "The 50 million Americans who are user-owners of cooperative business . . . are a strong link in our economic system. They help produce our food and fiber, provide our credit needs and broaden our electric power and telephone services, and more recently, they are enabling people to obtain a variety of specific and essential services, such as housing, health care insurance and nursery schools."

Many other have had similar praise for the cooperative movement. During recent hearings, Stanley Dreyer, President of the Cooperative League of the USA described the role of cooperatives in society as follows:

The cooperative provides a method of doing business in our private enterprise economy which permits people to provide themselves with high quality goods, facilities and services at reasonable cost. It often fills in gaps in needed services and goods in areas where neither private business nor the government can supply the need. . . . We believe that putting consumers on a par with other segments of the economy will make our nation's economy a more broad based one, more competitive and a more efficient private enterprise system.

The concept of cooperatives in our free enterprise system is not new—we have had cooperatives in the U.S. since the beginning of our Nation. For over forty years, the cooperative Farm Credit System has provided essential financing for the development of American agriculture. Rural areas also have benefited substantially from rural electric and telephone cooperatives. In some urban areas many people are well served by housing, health, and food cooperatives. H.R. 14829 has been modeled along the lines of the high-successful experience of the Farm Credit System.

Your Committee believes that the successes achieved in rural areas to foster competition and reduce prices through the free enterprise system can also be achieved by encouraging cooperatives in the inner city. This Committee has heard countless reports of mortgage lenders abandoning the cities, and thereby leaving them to decay. Such "red-lining" is also practiced by chain stores which are abandoning the cities at an alarming rate.

In his testimony before this Committee, Ralph Nader cited a 1975 report by the District of Columbia municipal planning office which states that between 1968 and 1974, there was a 33% reduction in the number of city supermarkets. This reduction in the availability of food inevitably leads to higher prices charged to the people who can least afford to pay them. Meanwhile, the buildings formerly housing the supermarkets remain empty.

Food and other consumer cooperatives provide a practical answer to this problem, and should be encouraged. First, cooperatives are based on community support—a factor which is essential for success. As Mr. Nader stated in his testimony:

While investor-owned firms have written off the inner-city situation as a failure on their books and their taxes, cooperatives see it as a very important opportunity. Cooperatives can assist areas of cities which have been economically devastated or abandoned but which still possess a consumer cash flow that can be part of a consumer cooperative subeconomy, recycling the consumer dollar several times through consumer food stores, cooperative health clinics, and other consumer cooperatives mutually supporting themselves.

Second, cooperatives do more than just provide quality goods at reasonable prices. They also serve to educate their members, providing

them with nutritional information, and educating them as to the dangers associated with consumer products such as heavily sugared cereals or aerosol sprays. Profit-oriented food chains frequently do not find it in their best interest to provide such information.

Third, cooperatives benefit not just their members, but also the community as well, through increased competition, recycling of money within the community, and serving as an example of consumerism at the retail level.

Even those who may oppose the proposed legislation in its present form recognize the importance of the role of cooperative associations in our economic life. In his testimony before your Committee, Deputy Secretary of the Treasury George Dixon stated:

Cooperatives can and do perform a valid and important role in our economic life. As focal points for active involvement of citizens at the grass roots level, consumer cooperatives have marshalled community energy and initiative to provide many useful services to members.

And as the Office of Consumer Affairs noted:

Cooperative undertakings certainly have the potential for sharpening competition and broadening the base of those citizens who by their participation enhance their experience in the business sector.

LACK OF FINANCING

While the recognition of the value of consumer cooperatives is widespread, the availability of financing is not.

Numerous witnesses cited the difficulties existing consumer cooperatives have encountered in obtaining a reliable source of financial or technical assistance from private credit institutions and existing government agencies. As one witness stated:

The banks down there did not understand cooperatives.
* * * [F]inancial institutions in this country, in the very process of doing well what they were designed to do, develop a perception of persons and organizations which are not operating on a for-profit motive that biases their decision-making process, harming those who do not work for the direct profit motive. That is a criterion applied by banks. That is a criterion applied by SBA.

The fact that cooperatives have been treated differently by existing credit institutions, even though they may be just as viable a form of business enterprise and just as capable of repaying their debts, underscores the need for a specialized lender who understands cooperatives. As another witness, Mr. Ray Arvio, explained:

The lending institutions, without this familiarity, simply cannot move ahead and I guess it will take many years of successful operation to demonstrate to them we can pay our bills. * * * [W]e are not asking for favors but the right to function as responsible citizens * * * and we feel that we can do a better job of helping ourselves if we had a little bit

of assistance, some technical assistance, some validation from a lending institution that cared for our success.

Consumer cooperatives are not asking for financing at below market rates. They simply seek access to credit and capital markets. As one witness stated:

Frankly, we are not as much concerned with the cost any more as just having a supply of capital. We will pay an extra point or two, and we will even pay that to investor-owned banks. But we have got to have a source of capital. They just do not understand that the money is not there.

It is thus apparent to your Committee that traditional financing is not available for cooperatives, and that in order for cooperatives to have the opportunity to serve its members and the public, a means of funding must be provided. Therefore, your Committee recommends the creation of a specialized lending system which would provide eligible cooperatives with both credit at prevailing market rates and technical assistance to enable them effectively to make use of this financial resource.

LOANS AT MARKET RATES

The legislation proposes to establish a bank which will make loans to new, existing and expanding cooperatives on a "sound business basis" at prevailing market interest rates. To this end, the legislation requires that the applicant have or will have a sound organization and financial structure, be solvent, and have a reasonable expectation of succeeding so that the loan will be fully repayable.

It is emphasized that the loans will be at the prevailing market rates. The Bank would not be set up to give subsidized loans, such as the loans offered by several other Federal and international financial agencies to which the U.S. contributes. The Consumer Cooperative Bank would not be established to duplicate or counteract the efforts of the Small Business Administration.

Moreover, it is the intent of this Committee that in allocating its credit resources the Cooperative Bank will take into consideration the needs of the community to be served. The so-called "mom and pop" establishments, small business enterprises, are very much in the American tradition, and this Committee recognizes the need to encourage such businesses. Thus, if communities are already adequately served by local stores with goods at reasonable prices, a cooperative need not and should not be funded. Furthermore, it is doubtful that a cooperative would form where the community's needs are already fulfilled. In its oversight function, your Committee will insure that the purposes of this legislation are accomplished consistent with the recognized needs of this nation's small businesses.

SPECIAL ASSISTANCE FOR LOW-INCOME COMMUNITY COOPERATIVES

As discussed earlier, there is a special need for cooperatives to fill a vacuum in low income areas where profit-oriented businesses have either pulled out or charge exorbitant prices for their goods and services. Cooperatives in these areas frequently lack adequate capital to start up or continue operations. Moreover, initial financial projections of such cooperatives may make them ineligible for loans from the Co-

operative Bank. Therefore, your Committee has determined that a special, well-administered fund is needed to meet the needs of such groups. Thus, H.R. 14829 provides for a one-time appropriation of \$250 million to be used for capital investment advances to new and low-income cooperatives. This fund will enable low income citizens to enter the business community where the consumer is not being properly served to help themselves by pooling their needs and resources in a cooperative effort.

TECHNICAL ASSISTANCE

The Committee finds that many cooperatives getting started flounder because they do not have the expertise necessary to run a business. In order that loans to these organizations be well utilized, the bill provides for technical assistance to be made available. The Farm Credit System has successfully operated a similar type of program.

THE OWNER-USER NATURE OF THE BANK

One of the most important features of this legislation, both from the point of view of the cooperatives and the government, is that upon repayment of the seed capital funded by the U.S. Treasury, the control of the Cooperative Bank will transfer to the owner-user cooperatives. The bill provides for government support only at the very beginning; cooperatives want and are able to help themselves. As one witness stated:

We in the coop movement want a bank that we can ultimately own through our own cooperatives, through the purchase of stock. We want the right to make some marginal loans, marginal from the point of view of what the investor-owned banks might make, but not marginal from our point of view. We will be doing it with our own money.

As Ralph Nader stated during the hearings:

This bill must be considered one of the three most important consumer bills in the past generation. It deals with economic and civic reconstruction and expansion on a self-help basis through an alternative economic organization that is rooted in the community and the neighborhood. It increases consumer bargaining power, and develops the necessary political power which economic institutions everywhere inevitably use to influence all levels of government.

In conclusion, this Committee believes that H.R. 14829 will provide the opportunity for all people, not only low-income people, but all Americans to have the chance to provide for themselves through businesses they establish together and own, the kinds of goods, services, and facilities they need most. Providing cooperatives with access to credit at prevailing market rates will not stifle, but rather, foster competition in the marketplace, thereby benefitting all members of the community. Finally, this legislation will provide our inner cities and other low-income areas with an alternative, "self-help" solution to the problem of obtaining low cost goods and services and revitalizing the inner city neighborhoods.

SUMMARY OF THE BILL

1. STRUCTURE OF THE BILL

The National Consumer Cooperative Bank Act provides for the creation of two interrelated entities: The National Consumer Cooperative Bank and the Cooperative Bank and Assistance Administration.

The Bank is structured as a mixed-ownership government corporation, initially capitalized by the Treasury and governed by a board of directors appointed by the President with the advice and consent of the Senate. As the Treasury-held stock is retired upon repayment of the capital, the Bank will take on all the functional attributes of a private lending institution. As this transformation takes place, the bank will be governed by a board of directors elected by and representative of the cooperatives which own and are served by the Bank.

Initially all thirteen members of the Board will be appointed by the President. Six of the members, plus the Chairman, will be federal officials, whose functions and experience involve cooperative organizations. The six non-federal members must also have extensive experience in the cooperative field. After two years, the six non-federal slots are to be filled by stockholder election. When the Class B and C stock equals 51%, the stockholders will also elect the remaining six directors with the exception of the Chairman. Thus, it is anticipated that the control over the Bank will be transferred from the government to the owner/borrowers at the earliest possible time consistent with the interests of the federal government.

The function of the Bank is to make and guarantee loans to, and discount the obligations of, eligible consumer cooperatives. All such transactions are to be made on a sound financial basis. The system envisions a central bank and from four to twelve regional banks, to be established after the central bank has been in operation for seven years.

The Cooperative Bank and Assistance Administration (CBAA) will consist of a five member Board, to be appointed for five year terms by the President with the advice and consent of the Senate. The qualifications of these members are outlined in the Act to ensure that only knowledgeable individuals will have a place on the Board.

The CBAA has several functions. First, it is charged with administering the Self-Help Development Fund, a revolving fund set up separately to make capital investment advances primarily to low-income group cooperatives which would not meet the test of credit-worthiness required for the Cooperative Bank loans. The Fund will also be used in some instances to supplement interest payments and to authorize special interest rates to cooperatives serving persons with low incomes. All advances from the Fund are to be repaid into the Fund, thereby replenishing it for future loans.

Secondly, the CBAA will provide much needed technical assistance to cooperatives. Such assistance will ensure that the credit made available through the facilities of the Bank or fund will be used efficiently and effectively. Without such assistance, the Bank over time might make loans only to cooperatives which were certain to succeed, either because they followed in areas which had already proved successful,

or because the composition or income levels of their membership ensured success. If this were to occur, the developmental objectives of the program would be lost.

Finally, in the same manner as the other financial regulatory agencies, the CBAA will exercise supervisory and regulatory functions over the Bank, including conducting bank audits and examinations during the period of time that the United States holds Bank stock. The CBAA will issue rules and regulations with respect to conflict of interest and credit guidelines. Thus, in its regulatory role, the CBAA will make certain that the Bank, the Fund, and the technical assistance are properly administered.

The provision of technical assistance, as well as the other services of the CBAA and the Bank, are modeled after the Farm Credit Administration, which has been successful over the years in assisting farmers to help themselves.

2. FINANCING OF THE BANK AND CBAA

The initial capitalization of the Bank will be provided through the purchase of Class A preferred stock by the Secretary of the Treasury at the rate of \$250,000 per year over a four year period beginning in Fiscal Year 1978. Additional capital will be provided by borrowers, who are required to subscribe to Class B stock in amounts determined by the Bank, but in any event not less than 1 percent or more than 10 percent of the face value of the loan. Borrowers may also subscribe to Class C stock as investors, both directly and through other organizations which they control.

The Class A stock held by the United States has first preference, and in addition, no dividend on any other class of stock may be paid at a rate greater than the rate paid to the Treasury on its Class A stock. Class A stock is to be redeemed and retired by the Bank as soon as practicable, but beginning June 30, 1990, the minimum amount of Class A stock retired must equal the amount of Class B stock issued that year.

The Bank's annual payment to the Treasury for the use of the initial capital is based on a formula designed to approximate over time the average cost which the Treasury paid for its funds during the preceding year. The formula requires payment of the lesser of (1) 25% of the gross income of the Bank which its necessary operating expenses are then subtracted, or (2) an amount computed on a rate determined by the Secretary of the Treasury, taking into consideration the average cost to the Treasury for its money and the purposes of the Act. While for the first few years of the Bank, the return on the Treasury funds may be negligible under this formula, the aggregate payment to Treasury will well exceed the less than 2% per annum which the Inter-American Development Bank, the International Development Association, and the Asian Development Bank charge for their subsidized loans. Since the bank will be charging its consumer cooperative borrowers at market rates, the spread between the cost of the Treasury funds and the interest charged on the loans to cooperatives will enable the Bank to expedite the retirement of the government owned Class A stock.

In addition to the seed capital described above, the Bank may also borrow in the open market, issuing obligations aggregating up to twenty times its paid-in capital and surplus. The obligations of the Bank will be eligible for purchase by federal and state financial institutions and agencies.

The obligations of the Bank may also be purchased by the Secretary of the Treasury at his discretion during the period in which the Treasury holds Class A stock. These purchases, however, are limited to such amounts as are included in appropriations acts, and all such transactions by the Secretary of the Treasury will be included in the federal budget totals.

A one-time appropriation of \$250,000 is provided for the establishment of a Self-Help Development Fund under Title II of the Act. The Act requires that there be an available working margin of not less than \$50 million. All transactions of this revolving fund will be accounted for and reported separately from the accounts of the Bank.

The administrative expenses of the CBAA, the Self-Help Development Fund, and the technical assistance provided in Title III are to be covered by appropriations acts.

3. FINANCIAL ASSISTANCE TO COOPERATIVES

Eligibility: An organization chartered or operated on a cooperative, not-for-profit basis to furnish goods, facilities, or services to its members, whose membership is open to all without discrimination, and which provides for voting on a one vote per person basis, is eligible to borrow from the Cooperative Bank. A limited amount of loans is also available to other institutions organized to enhance competition which are operated on a non-profit basis and which meet the restrictions described in the Act.

Bank Loans: The Bank is restricted to granting credit only to applicants who have or will have a sound organizational and financial structure, income in excess of operating costs and assets in excess of obligations, and a reasonable expectation of succeeding, so that the loan will be fully repayable. The duration of a Bank loan may not exceed forty years.

Unlike the subsidized loans granted borrowers by the Rural Electrification Administration, the Rural Telephone Bank, the Asian Development Bank, the Export-Import Bank, the Inter-American Development Bank, and the International Development Association, the loans from the Cooperative Bank will be at the prevailing market rates, taking into consideration the cost to the borrower of the required purchase of Class B stock. Thus, while cooperatives will be able to compete in the marketplace, they will not be placed at a competitive advantage.

It is the intent of this Committee that in granting loans to cooperatives, the Bank should consider the needs of the community to be served. Thus, the Bank should determine whether the community is already adequately served by existing establishments in the area, not only in terms of price competition, but also in terms of the availability of quality products and services which benefit the consumer. This Committee does not expect or intend that this legislation result in the replacement or demise of independent owned retail establishments by

consumer cooperatives. With loans at prevailing market rates, the growth of consumer cooperatives should enhance, not detract from competition in the marketplace.

Self-Help Development Fund Loans: Unlike the Cooperative Bank, the Self-Help Development Fund is not restricted to making "sound" loans in the traditional sense. The Fund is available to assist cooperatives comprised of low-income members or serving low-income areas whose initial or supplemental capital requirements exceed their ability to obtain capital from the Bank. The Fund may also be used to make interest supplements or credits to needy cooperatives under certain circumstances.

4. FEDERAL BUDGET

The bill is drafted so as to conform in all respects with the letter and the spirit of the Congressional Budget Act. No funds may be appropriated before Fiscal Year 1978. The initial bank capital, the Self-Help Development Fund, and the administrative expenses of the CBAA, the Fund, and the technical assistance program must all be appropriated. In addition, the Treasury purchases of Bank obligations are subject to limitations set in appropriations acts.

Although not required to do so by the Congressional Budget Act, your Committee also has included in the Federal budget both the Treasury purchases and sales of Bank debt obligations and the loans and guarantees made by the Bank. The combination of these measures ensures that the activities of the Bank and the Bank Administration will be consistent with the objectives outlined by Congress in its budget resolutions.

EXPLANATION OF COMMITTEE AMENDMENTS

To ensure the accelerated retirement of Class A stock issued by the Bank to the Secretary of the Treasury, your Committee, by amendment, required that beginning on June 30, 1990, such stock must be retired at a minimum rate equal to the amount of Class B (borrower) stock issued during each year thus eliminating the original proviso that the proceeds of Class B stock not be used for the retirement of Class A stock until the total of both classes of stock reaches \$1 billion.

During your Committee's deliberations, some confusion existed as to the interest rate to be charged to the ultimate borrower (eligible cooperative associations). By its adoption of a clarifying amendment, the Committee has made it clear that eligible applicants will be required to pay an interest rate for Title I loans "not less than the rates generally prevailing in the area from other sources for loans for similar functions." Thus, so long as public money is used to make loans, the Bank will not be able to unfairly compete with other lenders and rates charged borrowers from the Bank will not permit them to unfairly compete with borrowers from other credit sources.

In order to give definitive statutory meaning to the original designation of Class A (Treasury stock) as "preferred" stock, your committee, by amendment, makes absolute the preference and priority of Class A stock of the Bank to be purchased by the Treasury. However, it restricts the Bank from paying dividends on any other class of stock at a rate greater than the return to the Treasury on Class A

stock while any of that stock is outstanding. This should accelerate the retirement of Class A stock.

Inasmuch as the ultimate retirement of the \$1 billion Treasury-held Class A preferred stock depends upon the purchase of Class B stock by prospective borrowers, to insure meaningful participation by such borrowers, your Committee adopted a minimum requirement that Class B stock shall be purchased in an amount of not less than one per centum of the face amount of the loan at the time the loan is made, thereby eliminating the original requirement of "at least one share of Class B stock" which could have been so valued as to defer indefinitely the full retirement of Class A stock.

During your committee's deliberations, concern was expressed over the originally proposed 2 percent interest rate for the initial Treasury Department investment (\$250 million for each of the first four years of the Bank's operations). Your committee, while recognizing that any departure from the 2 percent initial capitalization "seed money" concept will inevitably postpone the final retirement date of Treasury-held Class A stock, adopted a compromise position requiring a return for Class A stock, payable from income, of the lesser of 25 per centum of the gross income of the Bank for the year less necessary operating expenses, or an amount based upon the average annual interest rate on all issues of debt obligations of the United States outstanding at the end of the preceding fiscal year. The formula adopted was patterned after a similar formula utilized by the highly successful Bank for Cooperatives and the Federal Intermediate Credit Banks, both part of the Cooperative Farm Credit System. The amendment, therefore, represents a significant step forward in response to the Administration's objections by insuring a greater aggregate return for the period of time in which Treasury stock remains outstanding.

In addition to requiring that all authorizations conform to the provisions of sections 401(a) and 402(a) of the Congressional Budget Act (P. L. 93-344), with first appropriations not required until fiscal year 1978, your committee adopted two amendments which have the effect of subjecting both the short-term Treasury borrowings authorized by section 110(c) of the bill and the loans and guarantees authorized by section 111 of the bill made by the Bank to the normal budgetary process for the purpose of accountability.

Your committee, by amendment, deleted the exemption from the provisions of section 3709 of the Revised Statutes, thereby requiring that "all purchases and contracts for supplies or services" made by the National Consumer Cooperative Bank and its regional banks "shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service."

Your committee insured that all loans made by the Bank shall be on a nondiscriminatory basis by its amendment to section 107 requiring that only those otherwise eligible cooperatives who make membership available "without any discrimination on the basis of age, sex, or marital status" shall be eligible to receive assistance.

STATEMENTS REQUIRED IN ACCORDANCE WITH HOUSE RULES

In accordance with clauses 2(1)(2)B, 2(1)(3), and 2(1)(4) of rule XI and clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statements are made:

COMMITTEE VOTE [RULE XI, CLAUSE 2(1)(2)(B)]

H.R. 14829 was favorably reported out of committee by a roll call vote on August 24, 1976, with 25 votes cast for and 10 votes cast against reporting the bill.

OVERSIGHT FINDINGS [RULE XI, CLAUSE 2(1)(3)(A) AND RULE X, CLAUSE 2(b)(1)]

The Subcommittee on Financial Institutions Supervision, Regulation and Insurance has held hearings on the subject matter contained in H.R. 14829. Based upon the evidence presented, the Committee concludes that the provisions of H.R. 14829, as amended, are necessary to provide consumer cooperatives access to credit and technical assistance which are considered essential for their continued development.

ESTIMATE OF COSTS TO BE INCURRED [RULE XIII, CLAUSE 7(a)(1)]

Your Committee estimates that the following costs will be incurred in carrying out the provisions of H.R. 14829. The bill authorizes appropriations totaling \$1 billion over a four-year period for the purchase of Class A stock in the Bank by the Treasury. A one-time authorization of \$250 million is provided for the Self-Help Development Fund created under title II. In addition, H.R. 14829 authorizes such sums as may be necessary for the administrative expenses of the CBAA and the Self-Help Development Fund. Those sums are projected to be \$3 million for fiscal year 1978, \$5 million for fiscal year 1979, \$7 million for fiscal year 1980, \$7.5 million for fiscal year 1981, and \$8 million for fiscal year 1982.

In its budget estimates for the first five years of the Act, (reprinted below) the Congressional Budget Office uses 3 to 5 year notes, rising from the current 7.164% to 7.923% in 1982 in computing the cost to the Treasury of supplying the authorized capital to the Bank. This Committee questions whether these calculations are too high, inasmuch as the June 30, 1976, average cost of all Treasury securities was 6.44%.

INFLATIONARY IMPACT STATEMENT [RULE XI, CLAUSE 2(1)(4)]

Your Committee believes that this bill will have no inflationary impact since borrowing from the Treasury over the next several years will be relatively small, and the ultimate effect of these loans will be to reduce the prices of goods and services to consumers.

The \$1 billion provided through the Consumer Cooperative Bank to creditworthy cooperatives will be used to expand services not presently available due to credit limitations. With the adoption of an amendment by your Committee requiring that the repayment of interest on the \$1 billion Treasury investment in the Class A stock of the Bank be set at a rate taking into account the cost to Treasury of the outstanding public debt or at 25% of the gross income of the Bank, whichever is less, your Committee believes that the Treasury will receive a fair rate of return on its investment. Further, since the \$1 billion Treasury investment will be repaid in full by the Bank, with interest as noted above, your Committee believes that this outlay will have no inflationary impact. The \$250 million authorized to be appropriated for the Self-Help Development Fund with an available working margin of not less than \$50 million is such an infinitesimally small amount of the over \$200 billion of total funds raised in credit markets each year, it can have no effect on the general level of interest rates. Your Committee, therefore, believes this legislation will have no inflationary impact except to the extent that the enhanced competition provided by nonprofit consumer cooperatives may result in lowering the cost of goods and services, thereby reducing inflation.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SECTION 403 OF THE CONGRESSIONAL BUDGET ACT OF 1974 [RULE XI, CLAUSE 2 (1) (3) (C)]

The Congressional Budget Office has submitted the following report:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 26, 1976.

HON. HENRY S. REUSS,
Chairman, Committee on Banking, Currency and Housing, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for H.R. 14829, National Consumer Cooperative Bank Act, reflecting the current committee changes.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE

REVISED COST ESTIMATE

AUGUST 26, 1976.

1. Bill Number: H.R. 14829
2. Bill Title: National Consumer Cooperative Bank Act
3. Purpose of Bill:

This bill would create a National Consumer Cooperative Bank (hereafter, the Bank) as an instrumentality of the United States Government. The Bank would make and guarantee loans to qualify-

ing cooperative enterprises, as defined in the legislation. Capitalization would be provided by \$1 billion in Treasury funds. The Bank would return to the Treasury a dividend on the principal outstanding and would begin to redeem the principal in 1990. The bill would also create an independent agency in the executive branch, the Cooperative Bank and Assistance Administration (CBAA). This agency would audit and supervise the Bank and would provide technical assistance to cooperatives; it would provide equity capital, credit, and interest supplements out of the Consumer Cooperative Self-Help Development Fund (hereafter, the Fund).

4. Cost Estimate:

The cost table below presents the authorization levels as specified in the proposed legislation, the expected outlays, and the costs. For many Congressional programs, costs and outlays are identical; however, for loan type accounts, costs differ substantially from outlays. Specifically, for the Bank, outlays represent the flow of loans to consumer cooperatives, while the costs represent (1) the net cost to the Treasury of borrowing the necessary funds, and (2) defaults on outstanding loans. Administrative expenses, where separately authorized, are included in the cost estimates.

	[Millions of dollars]				
	Fiscal year—				
	1978	1979	1980	1981	1982
Authorization levels.....	503	255	257	258	8
Projected outlays.....	73	159	202	333	387
Costs.....	27	52	65	72	55

5. Basis of Estimate:

The legislation specifies FY 1978 as the first year of operation for both the Bank and the Fund. Since the Bank is separate from the Fund and CBAA, both for budget purposes and operationally, the two are analyzed separately here.

	BANK				
	[Millions of dollars]				
	Fiscal year—				
	1978	1979	1980	1981	1982
Authorization levels.....	250.0	250.0	250.0	250.0	-----
Projected outlays.....	52.8	127.5	161.2	282.8	333.3
Costs.....	22.5	44.7	55.7	61.2	42.9

Authorization Levels.—These levels are as specified in the bill.

Outlays.—The Bank's outlays are a combination of essentially four things: loans (net of repayments), operating expenses, interest income, and dividends on Class A stock. The table below details the assumed levels of each for FY 1978 through FY 1982.

[Millions of dollars]

	Fiscal year—				
	1978	1979	1980	1981	1982
Loans (net).....	51.5	127.6	171.8	311.4	384.4
Operating expenses.....	5.7	15.0	15.6	18.1	20.8
Interest income.....	-4.4	-15.2	-29.8	-56.3	-89.0
Dividends.....	0	.1	3.6	9.6	17.1
Total.....	52.8	127.5	161.2	282.8	333.3

Both the loan levels and operating expenses were derived from historical data of the Farm Credit System. Interest income was based on an assumption that loans made by the bank would have an effective interest rate of 8.5 percent after giving weight to the stock purchase requirement. Finally, the dividend amounts were assumed to equal 25 percent of the net of interest income and operating expenses, since that amount was consistently lower than the amount which would be payable at the average treasury rate.

Cost.—The actual cost of the Bank's operation consists of (1) the cost of raising funds necessary to capitalize the Bank, and (2) the cost of defaulted loans. Interest rates used to calculate the Treasury's cost of borrowing are CBO 5-year projections for 3-5 year notes. The difference between the cost of money to the Treasury and the net income of the bank is the real cost of capitalization to the government. This differential is calculated as follows:

[Millions of dollars]

	Fiscal year—				
	1978	1979	1980	1981	1982
Interest income.....	-4.4	-15.2	-29.8	-56.3	-89.0
Operating expense.....	5.7	15.0	15.6	18.1	20.8
Net income.....	1.3	-.2	-14.2	-38.2	-68.2
Treasury cost.....	19.6	39.4	59.2	79.1	79.1
Differential (cost).....	20.9	39.2	45.0	40.9	10.9

A default rate of 3 percent is assumed for loans and loan guarantees made by the Bank to qualifying cooperatives reflecting the "sound business" criterion specified in the legislation.

[Millions of dollars]

	Fiscal year—				
	1978	1979	1980	1981	1982
Defaults.....	1.6	5.5	10.7	20.3	32.0
Fund and CBAA:					
Authorization levels.....	253.0	5.0	7.0	7.5	8.0
Projected outlays.....	19.9	31.6	40.7	47.5	54.0
Costs.....	4.4	7.1	9.7	10.7	11.7

Authorizations.—The Fund would be authorized \$250 million and such sums as may be necessary for administration of the Fund and operation of the Cooperative Bank and Assistance Administration.

Based on experience of the Federal Home Loan Banks and Civil Service Commission data, estimates of "such sums as are necessary" for administration of the Fund and of the CBAA are as follows.

Administrative expenses:	Millions
Fiscal year 1978-----	\$3
Fiscal year 1979-----	5
Fiscal year 1980-----	7
Fiscal year 1981-----	7.5
Fiscal year 1982-----	8

Outlays.—Projected outlays consist of (1) the administrative expenses estimated above, and (2) the absorption rate for loans, equity investment, and interest supplements provided to the cooperatives unable to qualify for Bank loans. The number of such cooperatives is currently small and concentrated in three geographical areas of the nation. As cooperatives are able to obtain financial support, their numbers are expected to increase. Since most of the loans from the Fund are expected to be principal-deferred loans, no repayments are expected before FY 1982. Loans from the fund are expected to be as follows.

Loans (outlays):	Millions
Fiscal year 1978-----	\$16.9
Fiscal year 1979-----	26.6
Fiscal year 1980-----	33.7
Fiscal year 1981-----	40.0
Fiscal year 1982-----	46.0

Costs.—The actual costs of the Fund and the CBAA consist of administrative costs—salaries and expenses estimated above—and defaulted loans. A default rate of 8 percent is used to reflect the higher risk of cooperatives unable to qualify for Bank loans. The Fund default estimates are as follows.

Defaults:	Millions
Fiscal year 1978-----	\$1.4
Fiscal year 1979-----	2.1
Fiscal year 1980-----	2.7
Fiscal year 1981-----	3.2
Fiscal year 1982-----	3.7

6. Estimate Comparison : None.

7. Previous CBO Estimate:

A previous estimate of this bill was prepared on August 6, 1976. The current estimate incorporates committee changes made since that date.

8. Estimate Prepared By: Roger C. Faxon (225-4972)

9. Estimate Approved By:

C. G. NUCKELS,
(For James L. Blum,
Assistant Director for Budget Analysis).

SECTION-BY-SECTION SUMMARY OF NATIONAL CONSUMER COOPERATIVE BANK ACT

The first section provides that the bill may be cited as the "National Consumer Cooperative Bank Act". Section 2 contains a statement of findings and purpose.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

Section 102.—Creation and charter of bank. This section charters the National Consumer Cooperative Bank as a mixed-ownership government corporation for the purpose of encouraging development of consumer cooperatives as follows:

- (1) through specialized credit and technical assistance;
- (2) by broad-based control of the Bank by its voting stockholders;
- (3) by fostering ownership by cooperative members;
- (4) by assuring return of net savings to members; and
- (5) by improving the quality and availability of goods and services to consumers.

Section 103(a-d).—Regional Banks. At the end of seven years from the initial operational date, not less than 4 nor more than 12 corporate regional banks may be chartered administratively to serve particular areas or classes of borrowers. Initially, each regional bank will be governed by a seven-member board appointed for a two-year term by the Chairman of the "Administration" (see Sec. 401) from nominees submitted by eligible cooperatives. Regional banks will be capitalized through the purchase of Class A preferred stock by the central bank, Class B stock purchased by eligible borrowers, and Class C stock subject to charter provisions. Each bank will have the same powers, duties, and functions as the central bank, except as restricted by charter provisions, and subject further to the restrictions of Sec. 103(d) (1-4). Each bank shall serve cooperatives within its geographical area. The central bank will make only participation loans in that area unless applicant has been denied a loan by the regional bank. Regional banks will originally obtain loanable funds by discounting loans and guarantees with the central bank. Regional banks may service central bank loans in its area.

Section 104.—General Corporate Powers. The Bank is authorized to make and service loans, credit commitments, guarantees, and furnish financially-related services and technical assistance to eligible cooperatives; to issue its obligations pursuant to Sec. 109, and is granted enumerated specific powers necessary and pertinent to its authorized purposes and functions.

Section 105(a-c).—Board of Directors. The original 13-member Board will be appointed by the President, with the advice and consent of the Senate, six members being selected from among offices of the consumer protection office or agency, Departments of HUD, HEW, Agriculture, Labor, Treasury, National Credit Union Administration, and the Farm Credit Administration, with the seventh Federal member to serve as Chairman of the Administration (Sec. 401). The President shall also appoint six non-Federal members with experience in cooperatives. At the end of two years, each non-Federal board member shall be elected by voting stockholders other than the Secretary of the Treasury. When 51% of the voting stock is held by borrowers, the remaining appointed directors shall be replaced by elected directors. Provision is made for classes of voting stockholders for nomination and election of directors; for quarterly open meetings with provision for maintenance of confidential financial data pertaining to user coopera-

tives; for actual expense reimbursement and subsistence for members of the board plus per diem for non-Federal members.

Section 106(a-h).—Capitalization. Bank capital is to be provided by the purchase of Class A preferred stock by the Secretary of the Treasury on behalf of the United States at the authorized rate of \$250,000,000 in each of the four fiscal years beginning October 1977, by purchase of Class B stock by borrowers at a rate required by the Bank, which is not less than 1% or more than 10% of the face value of the loan; and by purchase of Class C stock of investors who are eligible borrowers or organizations controlled by eligible borrowers. Class A preferred stock held by the United States shall have preference with respect to the assets of the Bank, and no dividends on other classes of stock may be paid at a rate higher than that paid on Class A stock. Holders of each class of stock, regardless of the number of shares held, shall be entitled to one vote, except as the bylaws may permit to encourage additional investment in Class C stock and to take into account the number of members served by cooperative borrowers. Class A stock shall be retired as soon as practicable, with the minimum amount of Class A stock retired each year after June 30, 1990, to equal the amount of Class B stock issued during that year. The Bank will pay a return to the Treasury on the Class A stock which is the lesser of 25% of its gross income for the year, less the necessary operating expenses, or a rate based on the average annual interest rate on Treasury debt obligations during the previous fiscal year applied to the amount of Class A stock outstanding. In determining the rate of return on Class A stock, the Secretary of the Treasury shall take into account the objectives of the Act to attain full borrower ownership and control of the Bank as soon as possible. Net savings by the Bank are to be set aside for patronage refunds in the form of Class B or C stock, allocated surplus, or after 10 years, in cash.

Section 107(a-d).—Eligibility. An organization chartered or operated on a cooperative, not-for-profit basis for furnishing or producing goods, services, facilities, or financing, primarily for its consumer members, will be eligible for the services authorized by the Act if it pays dividends within the limits approved by the Bank; allocates net savings as approved by its membership; makes membership available without discrimination based on social status, race, politics, religion, age, sex, or marital status; and provides for voting control on a one-vote-per-person basis. Other organizations operated to enhance competitive market forces or reduce price spreads between producers and consumers will be eligible if their net savings accrue to the benefit of ultimate consumers and the voting control of the organization is on a one-vote-per-person basis. The dollar volume of bank loans to such organizations is not to exceed 10% of the Bank's lending capacity. Any cooperative eligible for financial assistance from existing Federally-sponsored credit sources for cooperatives will be eligible only if its requests for assistance have been rejected by such organizations or pursuant to prior agreement between the Bank and such other lending source.

Section 108.—Advisory Committees. Provision is made for the utilization of advisory committees as the Board deems appropriate.

Section 109.—Annual Meetings. There is a requirement for annual meetings of stockholders, open to all members of borrower cooperatives.

Section 110(a-e).—Borrowing Authority. The Bank is authorized to obtain funds through the sale of bonds and other obligations with the amount of such outstanding obligations not to exceed 20 times paid-in capital and surplus. Federally-sponsored or supervised lending institutions are authorized to purchase bank obligations. The Secretary of the Treasury may purchase bank obligations at his discretion during the time that Class A stock is held by the Treasury, up to amounts contained in appropriations acts, and such purchases shall be included in the Federal budget.

Section 111(a-d).—Lending Powers. The Bank may make 40-year, variable interest rate loans, commitments for loans, and may purchase or discount obligations of the members of eligible organizations after determining that the borrower has sound organization and financial structure and future income prospects to permit full repayment of the loan. While the Bank has Class A stock outstanding, it may not make loans at an interest rate less than rates generally prevailing in the area from other sources for similar functions, taking into consideration the cost to the borrower of the required purchase of Class B stock in the Bank. The bank may guarantee loans of other lenders to eligible borrowers and at its option may purchase problem guaranteed loans in lieu of liquidation by the lender. Loans and guarantees by the Bank are included in the Federal budget.

TITLE II—SELF-HELP DEVELOPMENT FUND

Section 201.—Creation and operation of fund. An appropriation of \$250,000,000 is authorized with a working margin of not less than \$50,000,000 for use by the Administration (Sec. 401) as provided for in Section 202.

Section 202(a-d).—Capital investments and interest supplements. Advances to the capital structure of a cooperative serving low-income persons are authorized if it can be determined that such advances can be replaced out of members' equities within 30 years. Also authorized are interest supplements or credits on bank loans to low-income cooperatives to the extent that the interest rate the applicant pays to the Bank or other creditor exceeds 5% and cannot be met from the organization's net income for the year; and special interest rates to cooperatives substantially serving low-income persons.

Section 203.—Separate operations and reports. Operations of the Administration and the Bank involving the fund will be accounted for separately from assistance under Titles I and III.

TITLE III—COOPERATIVE TECHNICAL ASSISTANCE

Section 301.—Organizational assistance. Information and services concerning the organization and reorganization of cooperatives may be made available by the Administration or the Bank directly or through other agencies, colleges or other organizations with authority to accept grants or transfers of funds for such purposes.

Section 302.—Investigation and surveys. This section provides for investigations of new types of services and surveys of areas where use of cooperatives will contribute to the purposes of this Act.

Section 303.—Financial analysis and market surveys. This section provides for financial analysis of a cooperative's capital structure, its cost of operations, and cost of required market surveys.

Section 304.—Director and management training and assistance. This section provides for personnel training programs, directly or in concert with other organizations. Membership studies, membership education, general public information programs and management consultation are authorized.

Section 305.—Appropriations. There is a general authorization of sums to be appropriated to the Administration as may be necessary for the administration of Title III.

Section 306.—Fees for services. Fees for services under Title III, not exceeding costs, may be collected and shall be accounted for separately. Such fees may be made available for expenses of the Bank.

TITLE IV—THE COOPERATIVE BANK AND ASSISTANCE ADMINISTRATION AND GENERAL PROVISIONS

Section 401 (a-d).—Creation, functions and powers of the Administration. The Cooperative Bank and Assistance Administration (CBAA) is created as an independent agency of the Executive Branch to administer the Act through a five-member board appointed by the President and confirmed by the Senate, one member of which shall be designated by the President as the chairman to serve as chief executive officer. Special qualifications of four members are prescribed, with members serving for periods not to exceed five years on a staggered basis. The chairman is to receive compensation at Level III of the Executive Schedule, with other members compensated for actual expenses, subsistence and per diem. The CBAA is responsible for policy guidelines, directives, audits and examinations of the Bank and shall assure equitable balance of assistance to all types of cooperative borrowers. There are requirements for quarterly board meetings and provisions for executive management and staff.

Section 402.—Examination and audit. The Chief examiner of CBAA will audit the Bank while any stock is held by the United States. Thereafter, with the concurrence of CBAA, independent certified public accountants may be used.

Section 403.—Expenditures. This section authorizes the CBAA to make administrative expenditures.

Section 404.—Taxation. Until the retirement of United States-held stock, the Bank shall be tax-exempt, except for any real property held by the Bank which may be taxed by state, county, and municipal bodies.

Section 405.—Quarters and space. Until the United States stock is retired, the Bank will be housed in government space provided by GSA. Thereafter, the Bank will provide its own space.

Section 406.—Reports to Congress. Annual reports to Congress are required.

Section 407.—Appropriations. This section authorizes additional general appropriations beginning in FY 1978 to enable the Bank and the Administration to carry out the purpose of the Act.

Section 408.—Appeals. This section requires written notice when an application is denied or restricted, with provision for review of such

applications by the Board and additional review by the Chairman of the CBAA.

Section 409.—Conflict of interest. The Board is required to promulgate conflict-of-interest rules at least as stringent as the Federal Executive conflict-of-interest rules (Exec. Order 11222). Also required is publication of the financial interests and position of each nominee for elected membership on any board in any organization relevant to, in competition with or whose activities might be inconsistent with the objectives of the Bank. A similar statement, available on request, is required for each senior officer, appointed member of a board or advisory committee.

Section 410(a-c).—Amendments to existing law. This section amends the Government Corporations Control Act by adding "the National Consumer Cooperative Bank" to the list of mixed-ownership government corporations where appropriate. The chairman of CBAA is added to the list of positions at level III in the Executive Schedule of basic pay.

Section 411.—Separability clause.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman) :

GOVERNMENT CORPORATION CONTROL ACT

* * * * *

TITLE II—MIXED-OWNERSHIP GOVERNMENT CORPORATIONS

SEC. 201. As used in this Act the term "mixed-ownership Government corporations" means (1) the Central Bank for Cooperatives and the Regional Banks for Cooperatives, (2) Federal Land Banks, (3) Federal Intermediate Credit Banks, (4) Federal Home Loan Banks, (5) Federal Deposit Insurance Corporation [and], (6) the National Railroad Passenger Corporation [and (6)], (7) the Rural Telephone Bank, [and] (8) the United States Railway Association, and (9) *the National Consumer Cooperative Bank.*

* * * * *

TITLE III—GENERAL PROVISIONS

* * * * *

SEC. 302. The banking or checking accounts of all wholly owned and mixed-ownership Government corporations shall be kept with the Treasurer of the United States, or, with the approval of the

Secretary of the Treasury, with a Federal Reserve bank, or with a bank designated as a depository or fiscal agent of the United States: *Provided*, That the Secretary of the Treasury may waive the requirements of this section under such conditions as he may determine: *And provided further*, That this section will not apply to the establishment and maintenance in any bank for a temporary period of banking and checking accounts not in excess of \$50,000 in any one bank. The provisions of this section shall not be applicable to Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, [or] the Federal Land Banks, *as the National Consumer Cooperative Bank*, except that each such corporation shall be required to report annually to the Secretary of the Treasury the names of the depositories in which such corporation keeps a banking or checking account, and the Secretary of the Treasury may make a report in writing to the corporation, to the President, and to the Congress which he deems advisable upon receipt of any such annual report.

SEC. 303. (a) All bonds, notes, debentures, and other similar obligations which are hereafter issued by any wholly owned or mixed-ownership Government corporation and offered to the public shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, shall be issued in such manner and at such times and sold at such prices as have been or as may be approved by the Secretary of the Treasury.

(b) Hereafter, no wholly owned or mixed-ownership Government corporation shall sell or purchase any direct obligation of the United States or obligation guaranteed as to principal or interest, or both, for its own account and in its own right and interest, at any one time aggregating in excess of \$100,000, without the approval of the Secretary of the Treasury: *Provided*, That the Secretary of the Treasury may waive the requirement of his approval with respect to any transaction or classes of transactions subject to the provisions of this subsection for such period of time and under such conditions as he may determine.

(c) The Secretary of the Treasury is hereby authorized to exercise any of the functions vested in him by this section through any officer, or employee of any Federal agency whom he may designate, with the concurrence of the head of the agency concerned, for such purpose.

(d) Any mixed-ownership Government corporation from which Government capital has been entirely withdrawn shall not be subject to the provisions of section 302 or of this section during the period such corporation remains without Government capital. The provisions of subsections (a) and (b) of this section shall not be applicable to *the National Consumer Cooperative Bank*, the Rural Telephone Bank, Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, or the Federal Land Banks, except that each such corporation shall be required to consult with the Secretary of the Treasury prior to taking any action of the kind covered by the provisions of subsections (a) and (b) of this section, and in the event an agreement is not reached, the Secretary of the Treasury may make a report in writing to the corporation, to the

President, and to the Congress stating the grounds for his disagreement.

* * * * *

SECTION 5314 OF THE EXECUTIVE SCHEDULE OF TITLE 5, UNITED STATES CODE

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

(63) Chairman, United States International Trade Commission.

(64) *Chairman, Cooperative Bank and Assistance Administration.*

ADDITIONAL VIEWS OF HENRY B. GONZALEZ ON
H.R. 14829

The argument for the Consumer Cooperative Bank bill rests on two premises, neither of which seems very sound. First, there is the argument that consumer cooperatives can compete effectively against big businesses like supermarket chains, and thereby reduce prices. The record produces no evidence to show that this is true, and what practical experience there is indicates that it is not true. Second, there is the argument that consumer cooperatives can effectively serve areas that are not being well served by existing business. This might be true, and has been true in rural areas at least, but does not necessarily show that cooperatives have a limitless potential in urban areas. We cannot justify setting up a billion dollar bank for urban cooperatives. A consumer cooperative probably cannot succeed where a private business cannot, except in certain very limited and exceptional cases.

The unvarnished truth is that the enterprises financed by the Consumer Cooperative Bank would not be competing against heartless Big Business at all. The small businesses of this country—the independent grocers, the neighborhood garages, and the radio and TV repair shops would bear the brunt of the competition financed by this bank.

Here in Washington, the Greenbelt Co-op owns enterprises ranging from grocery stores to pharmacies. For years, the organization has tried to compete against the big grocery chains, but it cannot do so effectively. In the first place, the grocery business is fiercely competitive. In the second place, the organization has found that it cannot take an existing grocery store that is a loser and make it into a winner. It has closed store after store, for the same reason that commercial chains do—small stores, poor locations and low patronage. Advocates of this bill claim that co-ops will be able to serve areas that are underserved, as many inner city neighborhoods are. But the Greenbelt Co-op seems no more able to make a going proposition out of a bad location than the major chains could.

In short, co-ops are not likely to spring up to replace businesses that have been forced to close down because of declining markets. Rejuvenation of inner city areas will not magically take place through this bill, as some argue. No retail business, co-op or not, is going to survive where markets will not support it.

The bill does not define what kind of enterprises the Cooperative Bank would finance, but it is clear that the aim is to finance any and all kinds of operations from manufacturing to retailing, from gas stations to massage parlors. And because it is supremely unlikely that any co-op is going to take on the retail giants head to head, the business that would be financed would be competing directly with the smallest enterprises in the country. Small grocers must already survive

against the giants of American business; independent garages, independent furniture dealers, independent radio and TV repairmen and all kinds of other small businesses would also be likely candidates for takeovers or competition financed by this Bank.

There is some irony in this: with one hand, through the Small Business Administration, the Office of Minority Business Enterprise, and through other devices, Congress encourages the creation of small business. Now we purpose to create a bank with a billion dollars worth of tax resources to set up operations to take over or compete directly with those very same businesses.

It is by no means an exaggeration to say that if we enact this bill we will find many a small business that exists only because of Federal help, go out of business because of competition from or a takeover by, co-operatives that are also financed by the Federal government.

I have no special feeling against co-operatives. But this bill is not well thought out and is not clearly justified.

To the argument that co-ops will spring up to serve areas that are underserved by private business today, I can only say that we have no evidence that this is so. Inasmuch as the Bank is supposed to charge market-rate interest on its loans, it seems very unlikely that co-ops are going to be financed in areas that cannot clearly support a profitable business—areas that in short are likely to already be well served.

To the argument that co-ops will compete effectively against big business and reduce prices, I have to say that there is no evidence this would happen.

If this bill were to propose a limited experiment, we could justify it. But we cannot justify the creation of a bank equal in capital resources to the Chase Manhattan, to finance any and all enterprises that can be called co-operatives, when we have no real evidence that the program would work, could use that kind of money, or would really effect any change for the better in poor and struggling neighborhoods. Moreover, we have not the faintest notion of how this gigantic bank's activities would affect the hardest working person in America—the little guy on the corner who already has more grief than he needs from the giant down the street, the government's regulators, tax men, inspectors and question-makers. This bill represents good intentions, but good intentions don't always make good law.

HENRY B. GONZALEZ.

ADDITIONAL VIEW OF THE HONORABLE CHALMERS P. WYLIE

The basic strength of our free enterprise system over the past 200 years has been the strength of good competition. It has helped to assure a high standard of living for our people—the best in history. However, as our economy has grown, we have found that in many areas the beneficial effects of competition has been weakened or threatened. Complaints of consumers have gone unheeded. Quality factors are often ignored. And, of course, without good, strong competition, prices are not always as fair to buyer and seller as they should be.

H.R. 14829 is a proposal to create a National Consumer Cooperative Bank, patterned after the Cooperative Farm Credit System. Cooperatives, or co-ops, are non-profit organizations owned and controlled by their members. Producer cooperatives like the rural telephone bank, rural electric cooperatives, and the farm credit system have successfully provided many of the amenities of modern living at greatly reduced cost to farmers and groups of people in rural areas. Part of the early success story can be attributed to the ready availability of government capital when the co-ops were established. Government seed capital, like that provided to rural cooperatives, has been unavailable to consumer cooperatives. Experience has shown that a healthy cooperative hinges upon the ready availability of capital.

H.R. 14829 will provide for loans that will be paid back with interest and, thus, cannot be categorized as another give-away program.

Rural cooperatives have an impressive record of accomplishment. Why cannot urban cooperatives be as successful when backed by the cooperative bank arrangement?

In addition to capitalization by federal funds, H.R. 14829 provides for an administrative arm to assure necessary technical assistance and know-how to make certain the co-ops are properly managed.

In the State of Ohio, the cooperative movement has flourished and prospered. There is no reason why consumers in the cities, towns, and villages throughout the United States cannot also share in cooperative savings.

Urban cooperatives should provide a hedge against inflation for some of those who can least afford this hidden tax. Co-ops are non-profit which should provide some economic advantage. Cooperatives have few frills which result in comparatively low operating costs which means less overhead. In a cooperative, the middle man is virtually eliminated; thus, the mark-up associated with storing and distributing goods is greatly reduced.

If properly administered, there can be a quality of self-reliance, self-respect, and personal satisfaction in working with your neighbor to overcome shared economic problems. It seems to me that the concept of a national consumer cooperative could provide a meaningful counter attack on skyrocketing prices for needed goods and services. We have little to lose by trying the experiment. We might have considerable to gain.

CHALMERS P. WYLIE.

DISSENTING VIEWS ON H.R. 14829

GENERAL STATEMENT

This bill would establish a whole new central banking system complete with up to 12 regional banks to serve consumer cooperatives of various and sundry kinds. Clearly credit unions are consumer cooperatives and would be eligible users of this Bank's facilities. Credit unions have an extensive legislative program of their own. A very important part of their legislative program calls for the establishment of a National Credit Union Discount Fund. It is a well thought out proposal far preferable to the proposal for this Bank. The Credit Union's Discount Fund would be a self-financing operation. But it will go down the drain if this Consumer Bank bill ever becomes law. Congress simply would not authorize two duplicating financing facilities for credit unions. The first one to become law will knock the other out.

We will discuss our specific objections to this legislation under the following three broad classifications:

I. The bill duplicates a vast array of existing programs, and the Committee has failed to establish the need for this new multi-billion dollar program.

II. The provision of "seed money" for the Bank would cost the taxpayers more than \$1 billion in interest subsidies through 1990 and could place significant additional burdens on both the Federal Treasury and the private capital markets.

III. Contrary to claims by its supporters that the Bank will make only "sound" loans, the bill provides for the establishment of a quarter-billion dollar Self-Help Development Fund to provide financing for uncreditworthy borrowers. Establishment of this Bank will provide cooperative enterprises, which already enjoy virtual exemption from corporate income taxes, with an additional financial advantage over competing investor-owned, tax-paying enterprises.

DUPLICATION OF EXISTING PROGRAMS

This bill really should be called the National *Housing* Cooperative Bank Act, for housing cooperatives will be far and away the leading beneficiaries. Projections supplied by the Cooperative League of the U.S.A., and which appear on page 73 of the House Hearings, show the following percentages of loan demand attributed to housing cooperatives at five-year intervals. Just short of 77% of the estimated total of new loans is expected to be channeled into housing cooperatives over the first twenty years.

According to a widely circulated article, the enactment of this legislation would mean that, "Cooperative housing leaders would find a

sympathetic lending agency in which their cooperatives would participate and invest, and from which they could obtain long-term, low interest loans. . . . Loans from the bank would be supplemental to, not replacing, existing lending institutions such as HUD and private lenders. . . ." Virtually every existing housing program provides for the inclusion of housing cooperatives. The Federal commitment to assistance of housing cooperatives under the various mortgage insurance programs has amounted to more than \$2.5 billion, and more than \$2 billion of insured mortgages are outstanding at the present time.

In order to put this proposal in proper perspective we present in the following table a list of programs which are already available for the assistance of housing cooperatives:

TABLE 1.—PROVISIONS FOR HOUSING COOPERATIVES IN EXISTING HOUSING STATUTES

National Housing Act.....	Sec. 203(n).....	Insurance of mortgages.....	Authority of HUD Secretary to insure individual units of cooperative housing projects covered by blanket insurance under this act.
Do.....	Sec. 213.....	Cooperative housing insurance.....	Authority of HUD Secretary to insure mortgages of cooperatives and, under subsection (j), to insure supplemental cooperative loans for improvements and additions.
Do.....	Sec. 213(f).....	do.....	Authority of HUD Secretary to furnish technical advice and assistance in organization, planning, development, construction, and operation of cooperative housing projects.
Do.....	Sec. 221(d)(3).....	Housing for moderate income and displaced families.....	Authority for blanket mortgage insurance for qualified housing cooperatives.
Do.....	Sec. 235.....	Homeownership for lower income families.....	Authority of HUD Secretary to make periodic assistance payments.
Do.....	Sec. 236.....	Rental and cooperative housing for lower income families.....	Authority of HUD Secretary to make periodic interest reduction payments.
Do.....	Sec. 241.....	Supplemental loans for multi-family projects.....	Authority of HUD Secretary to insure loans for multifamily projects or group practice facilities, improvements and additions.
Do.....	Sec. 243.....	Homeownership for middle-income families.....	Authority of HUD Secretary to make periodic interest payments and to insure mortgages.
Do.....	Sec. 246.....	Sale of acquired property to cooperatives.....	Authority of HUD Secretary to sell to coopeartives multifamily housing projects acquired as a result of default.
Do.....	Sec. 313.....	Interim authority to purchase certain mortgages.....	Authority of Federal National Mortgage Association to purchase mortgages of housing cooperatives.
Housing Amendments of 1955.....	Sec. 102(h).....	Special Assistant Commissioner for Cooperative Housing.....	To expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner.
Do.....	Sec. 202.....	Loan program.....	Authority of HUD Secretary to make loans to any corporation, as defined, to any approved limited profit sponsor, to any consumer cooperatives, or to any public body or agency for the provision of rental or cooperative housing related facilities for elderly or handicapped families.
Housing and Urban Development Act of 1965.....	Title I.....	Special provisions for disadvantaged persons.....	Authority of HUD Secretary to make annual supplement payments to housing owners on behalf of qualified tenants.
Housing and Community Development Act of 1974.....	Sec. 8.....	Lower income housing assistance.....	Authority of HUD Secretary to enter into annual contribution contracts.
Appalachian Regional Development Act.....	Sec. 207.....	Assistance for planning and other preliminary expenses of proposed low- and moderate-income housing projects.....	Authority of HUD Secretary to make grants and loans from the Appalachian housing fund.
Foreign Assistance Act of 1961.....	Sec. 224.....	Housing projects in Latin American countries.....	Authority of President to assist development of self-liquidating housing projects in the American Republics.
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.....	Sec. 215.....	Planning and other preliminary expenses for additional housing.....	Authority of Federal agencies to make loans to housing cooperatives for planning and financing of housing for displaced persons.

Source: Basic Laws and Authorities on Housing and Community Development, committee print of House Committee on Banking, Currency and Housing.

The question which is raised in our minds by this impressive array of existing programs is why we need to create an entirely new institution, primarily for the benefit of housing cooperatives, on top of these massive existing programs. This is not to say that the existing programs are working adequately to satisfy the legitimate needs of housing cooperatives. Mr. Victor A. Altman, legal counsel for the Foundation for Cooperative Housing Services, Inc., has provided the Committee with a thorough critique of the existing programs, some of which have been suspended for various reasons. He has pointed out that the mandatory position within HUD of Special Assistant Commissioner for Cooperative Housing has declined in importance and that it is currently unfilled. What is unfortunate is that the Committee has not taken the time to hold oversight hearings to determine whether existing programs can be modified to meet the needs of cooperatives.

It was in this spirit that Congressman Rousselot offered a substitute which would have established a scaled-down, experimental program within the National Credit Union Administration to provide financing for consumer cooperatives. There was no suggestion that the NCUA was the only suitable location for a consumer cooperative bank. The proposal was based on a recognition of the fact that the American people are fed up with the relentless proliferation of government agencies, that new agencies should be established only as a last resort, and that the establishment of such new agencies should be accompanied by the dismantling of those existing agencies which have proven to be ineffective or obsolete.

The failure of the Committee to conduct thorough oversight of existing agencies involved in financing cooperatives is inexcusable in light of the fact that under the new Congressional budget procedures no funds can be appropriated under this bill until fiscal year 1978, which begins October 1, 1977. Unless this bill is intended to be just an election year promise, the new Congress should conduct a thorough series of oversight hearings. We owe at least this much to the long-suffering American taxpayer.

Moreover, although this bill is touted as a means of making financing available for consumer cooperatives, Section 107(b) opens that field considerably. Section 107(a) makes cooperatives such as grocery stores, garages, and health services eligible but Section 107(b) provides that loans may be made to "any other institution chartered or operated in such a way as to enhance competitive market forces or to reduce the price spread between producers and the ultimate consumers of products or services . . .".

The Committee has not explored what spectrum of products and services might be eligible under this section but it seems quite clear that loans could be made to credit unions and, presumably, public interest law firms, and other assorted recipients. In fact, Mr. Nader stated in his testimony in favor of the bill that:

Entire consumer cooperative sub-economies would develop in a city or region with its own banks, insurance companies; adult education schools, newspapers, health delivery services, housing, artistic, cultural and athletic activities, testing laboratories and restaurants—to list a few of the possible services.

As we see it, this Bank, if created, will have ample challenge serving consumer cooperatives of the types made eligible under Section 107(a). We would strongly recommend the deletion of Section 107(b).

CAPITALIZATION

The bill's capitalization authority is unbelievably broad and loose.

Over the next four years, \$1 billion of taxpayer funds will be invested by the Treasury in class A preferred stock of the Bank. The only statutory requirement for retiring the Treasury held class A stock in that after June 30, 1990, class A stock shall be retired in an amount equal to class B stock of the Bank issued during the year. Class B stock is user stock. Borrowers from the Bank must subscribe to class B stock in an amount not less than 1% nor more than 10% of the loan. An amendment adopted in Committee set this stock purchase requirement at a minimum of 1% of the face amount of the loan. On this basis, the Bank would have to make \$100 *billion* of loans to generate issuance of enough class B stock to retire the \$1 billion of Treasury held class A stock.

A projection of operations of the Bank (page 74 of the hearings) anticipates that in the tenth year of operations, the Bank will issue \$36 million of class B stock based upon a required purchase rate of 0.5% of the amount of the loan. That amount of stock, of course, would be doubled to \$72 million since the minimum class B stock purchase requirement by amendment has been set at 1% of the amount rather than at a rate of 0.5% as used in the projection. On that basis, it would take fourteen years after 1990 to issue enough class B stock to retire the \$1 billion of class A stock held by the Treasury.

As introduced, the bill provided that the Treasury would get a dividend at the rate of 2% on its investment. The Bank is required to make loans to cooperatives at market rates in the area which would be 8-9 or 10% in this market. The difference between the 2% cost of the Treasury stock and the 8-9 or 10% lending rates meant that the Bank would enjoy a fantastic earnings windfall as long as the Treasury held class A stock was outstanding. None of that gigantic windfall would flow through to coop borrowers because the Bank, as just noted, has to lend its funds at market rates. The magnitude of this subsidy to the Bank works out to \$1 billion over a 12-year period if loans were made at 8% leaving a spread of 6 percentage points over the 2% cost of the money. If loans were made at 9%, a spread of 7 percentage points—the amount of the subsidy would reach \$1 billion in but 10.3 years. If the loan rate was 10% giving a spread of 8 percentage points, the subsidy of \$1 billion would have been reached in just nine years.

Finally, such huge subsidies to the Bank at taxpayer expense were just too much for the Committee to swallow. An amendment was adopted which was supposed to gear the dividend to the Treasury at the lesser of 25% of the net operating income or the average cost of money to the Treasury for the preceding fiscal year. For fiscal year ending June 30, 1976, that cost was 6.436%.

But the amendment is defective. It can be read two ways. Literally it says the dividend to the Treasury would be calculated by taking 25% of the gross income of the Bank and from that amount subtract-

ing necessary operating expenses. This, of course, would mean that so long as operating expenses exceeded 25% of gross income, no dividend would be paid. Under this interpretation of the amendment, the Treasury would not receive any dividend until the fifth year at which time the dividend rate would be 0.17%. At the end of the tenth year, the Treasury dividend rate still would only be 2.045%.

The other way of reading the amendment would be to say what the amendment means, would be to take operating expenses from gross income and then 25% of that remaining amount would be available for dividends to the Treasury. On the basis of the 10-year projection of operations appearing on page 74 of the hearings, calculating the dividend in this manner would mean for over nine years the Bank would be receiving a taxpayer subsidy. It is only in the tenth year and thereafter that the Bank would be paying a dividend to the Treasury in an amount equal to the cost of the money to the Treasury. With this interpretation of the meaning of the amendment, the following table compares the dividend rate payable to the Treasury under the original bill and under the Committee amendment.

TABLE 2.—DIVIDEND RATES IN PERCENT

Years of operation	Original bill	As amended
1.....	2.0	0
2.....	2.0	0
3.....	2.0	.48
4.....	2.0	.98
5.....	2.0	1.73
6.....	2.0	3.46
7.....	2.0	3.62
8.....	2.0	4.70
9.....	2.0	5.93
10.....	2.0	16.44
Average rate.....	2.0	2.73

¹ 6.44—Average Treasury borrowing rate for fiscal 1976.

Obviously, there is still a huge subsidy to the Bank through making Federal funds available to it at such low costs. Depending upon the market rates the Bank charges for its loans to cooperatives, the subsidy would amount to over \$750 million. This is a Ponzi-type operation. Give enough subsidy to an institution and out of your own funds it eventually will be able to pay back the investment in it, which you originally made.

This ambiguous amendment must be clarified. That can be done very easily. If you want to avoid giving the Bank a 9-year gravy train subsidy ride at taxpayer expense, simply drop the first part of the amendment the Committee made and gear the Treasury dividend rate directly to the cost of money to the Treasury as is provided in the second part of the Committee amendment.

It is true the Treasury held class A stock also could be retired from accumulated earned surplus. The largest part of earned surplus will accumulate from using Treasury subsidized funds and lending to members at 8% or more. The 10-year projection of operations in the Hearing assumes a loan rate to borrowers of approximately 8% and accumulated earned surplus of \$720 million after reserves of \$116 million at the end of ten years. *But there is no requirement that any of this earned surplus be used to retire class A Treasury held stock.* As a

matter of fact, the general admonition that the Treasury class A stock should be retired as soon as practicable is further conditioned by the requirement that any such action shall be "consistent with the purposes of this Act." Under such language, the Bank might very easily determine that since the purpose of the Bank is to make loans to member cooperatives, it would not be consistent with the purposes of this Act to voluntarily reduce its lendable funds by using accumulated surplus to pay off Treasury held class A stock. Make no mistake about it. That Treasury held class A stock will be around for a long, long time—at least until we are into the next century.

BORROWING AUTHORITY

The borrowing authority of the Bank is at least as loose, broad and fantastic as its stock capitalization. The Bank may borrow and have outstanding at any one time up to twenty times the amount of its paid-in capital and surplus. Assuming appropriations acts so authorize, the entire amount could be borrowed from the Treasury, or the entire amount could be borrowed from the public or from any combination of these sources of funds. The \$1 billion of Treasury held A stock alone is good for \$20 billion or borrowing authority which may be outstanding at any one time. Paying off \$500 *million* of the Treasury held stock would shrink the Bank's borrowing authority by \$10 *billion*. This is another reason why the Treasury class A stock will not be retired until after June 30, 1990, when the mandatory retirement provisions of Sec. 6(c) take hold requiring after that date that Treasury class A stock be retired in an amount not less than the amount of user class B stock issued during such year.

Again, referring to the 10-year projection of operations of the Bank (page 74 of the Hearings), we find that at the end of the tenth year, there will be outstanding \$1 billion of Treasury A stock, \$200 million of user B stock, \$30 million of class C stock and retained earnings or surplus of \$720 million. Doubling the class B amount because of the doubling of the purchase requirement would add another \$200 million to the figures given, making a total capital and surplus at the end of ten years of \$2.150 billion. Twenty times that amount is borrowing authority of \$43 billion. As far as the statute is concerned, all of that could be borrowed from the U.S. Treasury provided the Secretary of Treasury acquiesced and such amounts were authorized by appropriations acts.

In Committee, the minority offered an amendment which would have placed a ceiling on the amount of funds the Bank could borrow from the Treasury and have outstanding at any one time, of an amount not exceeding the amount of the class A stock held by the Treasury, thereby placing a ceiling of \$1 billion on the maximum amount of Treasury loans to the Bank. Treasury exposure thereby would be limited to \$2 billion—\$1 billion in stock and \$1 billion in loans.

The Export-Import Bank line of credit with the Treasury has a statutory limit of \$6 billion. The Home Loan Bank System has a \$4 billion statutory line of credit with the Treasury. The Federal Savings and Loan Insurance Corporation, by statute, is limited in its line of credit with the Treasury to borrowings not exceeding \$750 million outstanding at any one time.

It is loose and irresponsible legislation not to set a fair statutory borrowing limit on the line of credit this new cooperative Bank would have with the Treasury.

"SOFT" LOANS TO UNCREDITWORTHY BORROWERS

There has been considerable discussion concerning the interest rate which the Bank would charge on loans to cooperatives. Our distinguished Subcommittee Chairman, Mr. St Germain, has circulated a helpful memorandum on this subject which concluded with the statement, "H.R. 14829 was not intended to and as currently drafted will not provide subsidized rates to any class of borrowers."

Although this statement provides a substantial amount of reassurance that the Bank will not be used to provide subsidized loans, there is, notwithstanding the assurances we have been given, reason to be concerned that this legislation will provide subsidies to some cooperatives which are not available to investor-owned enterprises with which these cooperatives compete.

Our concern stems in part from a passage in the same testimony of Mr. Stanley Dreyer, President of the Cooperative League of the U.S.A. In this passage, which is part of the same statement to which Chairman St Germain referred in his memorandum, Mr. Dreyer said:

The only sources for financing of emerging cooperatives are major banks which have set up economic development departments. Through these departments, soft loans for economic development projects (such as a cooperative) are theoretically possible. In practice, however, it is very difficult for a cooperative to obtain such a loan. The banks require guarantees ranging between 50% and 80% of the loan requested. (Hearings on H.R. 14512, National Consumer Cooperative Bank Act, p. 62.)

Congressman Rousselot pursued this matter in a follow up question to Mr. Dreyer:

To what extent would you anticipate that the Bank would in fact provide "soft" or "subsidized" loans, as opposed to traditional "hard" loans?

The full text of the question appears on p. 287 of the Hearings, and Mr. Dreyer's answer follows at the top of p. 289:

Answer. H.R. 14512 is a proposal for a total cooperative finance system for consumer cooperatives. By that, I mean that in addition to the bank making sound loans, the Cooperative Bank and Assistance Administration would undertake to provide technical assistance and would administer the Self-Help Development Fund—for investment in capital of cooperatives, interest supplements, etc. On page 7 of my testimony, I was speaking of the needs of cooperatives and not exclusively of the types of loans which the bank would make. The bank would make only sound loans. At times, the supplemental aspects of the Self-Help Development Fund might "shore up" any proposal so that it would then become a sound loan.

In light of this response, it seems clear that there is still considerable reason to be concerned that while the Consumer Cooperative Bank would be making sound loans through the front door, the Self-Help Development Fund will be providing subsidies through the back door—subsidies which are not available to neighborhood grocery stores and other small businesses which compete with cooperatives.

If we are going to view the purpose of the Consumer Cooperative Bank as to ensure availability of financing but not to provide a subsidy, perhaps we should provide that all loans to cooperatives will be made at 2% above prime, as Mr. Phillipson, of Greenbelt Consumer Services, suggested in the portion of his oral testimony which Chairman St Germain cited:

Frankly, we are not as much concerned with the cost any more as just having a supply of capital. We will pay an extra point or two, and will even pay that to the investor-owned banks. But we have got to have a source of capital. They just do not understand that the money is not there.

Another alternative to loans at 2% above prime to creditworthy borrowers would be loans to non-creditworthy borrowers at an additional premium to compensate for the added risk. The premium would ensure that the loans would be made on a sound business basis, and the additional spread earned could be applied toward redemption of the Treasury's class A stock.

In any event, the Self-Help Development Fund is inconsistent with a structure which is based on the principle of providing nonsubsidized loans to cooperatives on a sound business basis.

UNFAIR TAX ADVANTAGES TO COOPERATIVE ENTERPRISES

The Statement of Findings and Purposes in section 2 of the bill contains a misleading attack on "the practices that commercial and industrial enterprises have developed over the years," which allegedly "have resulted in declining competition and contributed to periods of recurring inflation and to increasing the gap between the producers' prices and the consumers' purchasing ability."

One of the "practices" to which the bill presumably refers is that investor-owned corporations are subject to income taxes from which cooperatives are practically exempt.

A 1963 Texas Law Review Comment outlined the Internal Revenue Code provisions affecting taxation of cooperatives through 1962, when the last major revisions were made:

The 1962 Revenue Act has the effect of making all business earnings of the cooperative currently taxable to the cooperative or the patron, but not to both. As seen earlier, cooperatives have long been allowed a deduction for amounts paid out as patronage dividends. The 1962 Act places some limitation on this deduction. For the cooperative to take this deduction the patronage dividends must be paid in the form of cash, qualified written allocations, or other property (except non-qualified written allocations).¹

¹ 41 Tex. L. Rev. 908, 912 (1963).

The author's conclusion puts the present legislation in an interesting historical perspective:

Although the new provisions do not tax cooperatives to the extent desired by the cooperative's competitors, they do seriously limit the cooperatives' use of their margins. The difficulty in qualifying allocations and the payment of twenty percent of each qualified written notice of allocation is likely to force changes in cooperative financial structure, and perhaps increase their dependence on invested capital and borrowed funds.²

This bill will provide a mechanism for cooperatives to meet their increased need for "invested capital and borrowed funds" by having the federal government provide "seed money" for the National Consumer Cooperative Bank.

The full extent of the inequity which remained after the 1962 Revenue Act was set forth by Mortimer M. Caplin, United States Commissioner of Internal Revenue during the Kennedy Administration:

A broad spectrum of change in the tax laws is of course necessary, but one particularly compelling case for re-examination and reform is the current tax treatment of cooperatives. Although only a limited group and number of cooperatives are classified tax exempt, as interpreted the present tax rules afford to other cooperatives the practical effect of exemption. Today, cooperative corporations, although nominally subject to the corporate income tax, may deduct those earnings distributed to patron-owners in the form of patronage dividends, thus in effect avoiding tax liability. Additionally, if 20 percent of these dividends is paid in cash and the balance in the form of paper allocations, cooperatives can retain and invest earnings for expansion and other business purposes on a tax free basis. Thus, cooperatives virtually are exempt from the corporate income tax. In contrast, ordinary business corporations currently pay a tax of over 50 percent on their taxable income in excess of \$25,000, whether that income is distributed to stockholders or retained for use in the business.

Cooperatives originated as simple agency arrangements among farmers, who joined together in order to market their produce more profitably. Today, however, having capitalized upon their ability to generate tax-free earnings they have become large corporate enterprises engaging in multiline business activities in all segments of the economy. In almost every area of their operations, cooperatives wage aggressive and effective competition with taxpaying businesses. Indeed, cooperatives generally have grown more rapidly than business corporations and in many instances have acquired substantial corporations and converted them into cooperatives.

* * * * *

In conducting such a reexamination, it should be kept in mind that cooperatives have changed in the past 50 years from

² *Id.* at 919.

simple mechanisms for farmers to market their products to complex business organizations competing with normal corporations which, unlike cooperatives, bear a substantial tax burden. The competition they are able to generate is aggressive and formidable. In this context, there is no reason for Congress to permit the continuation of existing disparities in the tax treatment of two forms of doing business which serve similar functions in our society.³

We recognize that the kind of thorough policy reexamination for which Mr. Caplin called, and which has not been performed to this day, is beyond the scope of our Committee's jurisdiction, but for this Committee to attack the "practices (of) commercial and industrial enterprises" while it ignores the enormous tax advantages which cooperatives enjoy, is to play a cruel joke on investor-owned enterprises whose taxes only lower the standard of living of consumers to the extent that the Federal Government indulges in wasteful and ill-conceived spending programs.

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³ 58 Geo. L. J. 6, 7-8, 45 (1969).

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ADDITIONAL DISSENTING VIEWS OF HON. RON PAUL, HON. JOHN H. ROUSSELOT, HON. CHARLES E. GRASSLEY

H.R. 14829 seeks to set up a National Consumer Cooperative Bank in order to help promote cooperative, non-profit forms of business which are allegedly unable to get adequate financing through the private sector. There are a great many thing wrong with this legislation, both in the manner it seeks to help cooperatives and in the underlying philosophy behind it.

This bill will set up another new bureaucracy in Washington along with 12 regional banks, each with its own little bureaucracy. These banks would receive \$250 million in each of the next four fiscal years for a total of \$1 billion. This money is eventually to be paid back to the Treasury, though the interest would be exceedingly low—zero percent in the first few years, in fact. Nor must the principal start to be repaid until 1990, and then only if the directors determine that it will not impair the operations of the bank.

In addition, one should keep in mind that it is not necessarily a foregone conclusion that any money will be paid back at all. This is because the bank's loans are to be directed specifically toward businesses who have demonstrated an inability to get loans anywhere else. Presumably this means that they do not meet the minimum risk requirements set by private banks. This would seem to indicate that the default rate on loans made by the National Consumer Cooperative Bank may reasonably be expected to be considerably higher than those suffered by private banks. Of course, the taxpayer will ultimately absorb the loss and the subsidized interest rates.

There is also the strong possibility that the National Consumer Cooperative Bank will cost the taxpayer additional money by driving out of business some marginal, yet profit making, businesses. One may well imagine, for example, the creation of cooperative stores with government loans which will compete with small "Mom & Pop" stores which may very well have to obtain Small Business loans to stay in business. This will create a situation in which the government would be subsidizing two competitors against each other. And, since cooperatives presumably won't be making a profit, there will be a loss of tax money as well.

Another effect of this bill will be to further contribute to inflation by increasing the demand for capital on the money markets where the Treasury does its borrowing. The enormous borrowing by the Treasury to finance huge Federal deficits and numerous "off-budget" programs has already had the effect of crowding out small borrowers by bidding up the interest rate. This is a fundamental reason why it is almost impossible to get a mortgage today. And the monetization of this debt by the Federal Reserve increases the supply of money, which is the primary cause of rising prices. Thus the true effects of this bill on inflation are in stark contrast to the premise of the bill, which is that "the

practices that commercial and industrial enterprises have developed over the years have resulted in declining competition and contributed to periods of recurring inflation and to increasing the gap between the producers' prices and the consumers' purchasing ability."

Quite apart from these general objections to establishment of a National Consumer Cooperative Bank is the not-so-subtle anti-capitalist bias of the whole idea. As Chairman Fernand St Germain put it in his opening statement, "The economic difficulties encountered by the average workingman—the victim of runaway inflation—in today's marketplace has led to a renewed interest in developing cooperatives as an alternative to our existing private enterprise system."

This notion was effectively questioned in testimony by Deputy Secretary of the Treasury George H. Dixon before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance on June 29, 1976:

This legislation is unique in our experience because it ties Federal subsidies and assistance not to the attainment of specific objectives—for example, more housing units, development of new energy resources—but rather to the form of the organization involved, irrespective of the function it performs. As such, it must represent a judgment that the cooperative form of organization is inherently superior to other business forms: corporations, partnerships and individual proprietorships.

This judgment in turn appears in part to be premised on the belief that a cooperative's superiority is based upon the fact that it is not designed to make a profit. Putting aside for a moment the fact that no cooperative of any size can survive and prosper without generating the functional equivalent of profits—that is, an excess of revenues over expenditures sufficient to build capital, invest in plant and equipment and pay a return to its members—we are not prepared to accept the judgment that profit-oriented enterprises are less likely to meet the public demand for better goods and services at lower prices.

The desire to promote cooperative businesses would seem to be grounded on the belief that profits are somehow unnecessary and simply increase the cost of goods we pay for. This is completely false and flies in the face of over one hundred years of economic thinking. Profits are essential to the operation of a free enterprise economy. As Ludwig von Mises put it in *Human Action*:

Profit and loss are the devices by means of which the consumers exercise their supremacy on the market. The behavior of the consumers makes profits and losses appear and thereby shifts ownership of the means of production from the hands of the less efficient into those of the more efficient. It makes a man the more influential in the direction of business activities the better he succeeds in serving the consumers. In the absence of profit and loss the entrepreneurs would not know what the most urgent needs of the consumers are. If some entrepreneurs were to guess at it, they would lack the means to adjust production accordingly.

This means that one cannot have an economy made up only of co-operative businesses, because without profits there is no meaning to the price system. There is a tremendous amount of information transmitted by the price system and it is based on the existence of profits. For example, the only reason why drinking water is not produced synthetically today is because economic calculation shows that it is more expensive than other methods. This is the reason for the gross inefficiency of all socialist or quasi-socialist economies in the world and also the reason why the U.S. Post Office cannot compete with United Parcel Service.

No one wishes to discourage the voluntary formation of cooperatives on the free market, without government subsidies or special favors. But there is no reason why they ought to be encouraged at the expense of profit making enterprise.

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Not Paul
John H. Bressler
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